United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Airport Parkway
Cheyenne, Wyoming 82001

ES-61411
pr/W.26 (WY6233.pr)

September 20, 2002

40-6622

Mr. Daniel M. Gillen, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards
Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Gillen:

Thank you for your letter received by this office on August 26, 2002, regarding the request from Pathfinder Mines Corporation for amendment of source material license SUA-442 which will allow alternate concentration limits for four ground water constituents at the Shirley Basin uranium mill tailings site in Carbon County, Wyoming.

None of my staff has visited the permit or amendment area, and we are unfamiliar with habitat conditions that may occur on, and around the area. Therefore, we are unable to provide you with specific information on the occurrence of threatened or endangered species, or species proposed for listing under the Endangered Species Act of 1973, as amended (Act). However, given the location of the site, we have attached a list of species that may occur in Carbon County.

We look forward to reviewing the draft environmental assessment when it is completed. If the scope of the project should change or you should determine that ground water may indeed reach the surface at any time and you determine that listed species or migratory birds may be impacted please call our office so that we may protect these species.

NMSS01

We appreciate your efforts to ensure the conservation of endangered, threatened, and candidate species and migratory birds. If you have any further questions please contact Pedro 'Pete' Ramirez of my staff at the letterhead address or phone (307) 772-2374, extension 36. In your response, please refer to WY6233.pr.

Sincerely,

Michael M. Long
Field Supervisor
Wyoming Field Office

cc: Director, WGFD, Cheyenne, WY
Nongame Coordinator, WGFD, Lander, WY

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THREATENED AND ENDANGERED SPECIES OF CARBON COUNTY, WYOMING
Last Updated May 15, 2002

Status Key: **E** = Endangered, **T**= Threatened, **P** = Proposed for Listing, **X** = Experimental

SPECIES	STATUS	HABITAT
BALD EAGLE (*Haliaeetus leucocephalus*)	T	Found throughout state
BLACK-FOOTED FERRET (*Mustela nigripes*)	E	Prairie dog towns
CANADA LYNX (*Lynx canadensis*)	T	Montane forests
MOUNTAIN PLOVER (*Charadrius montanus*)	P	Grasslands
BLOWOUT PENSTEMON (*Penstemon haydenii*)	E	Sand dunes south of Ferris Mtns.
COLORADO RIVER FISH SPECIES (see attached)	E	Downstream riverine habitat of the Yampa, Green and Colorado river systems.
PLATTE RIVER SPECIES	E	Downstream riverine habitat of the Platte River in Nebraska

If the proposed action will lead to water depletion (consumption) in the Colorado River System, impacts to threatened and endangered species inhabiting the downstream reaches of the basin should be included in the evaluation (Please read detailed information in the following page).

If the proposed action will lead to water depletion (consumption) in the Platte River System, impacts to threatened and endangered species inhabiting the downstream reaches of the Platte River in Nebraska should be included in the evaluation (Please read detailed information in the following page).

BALD EAGLE: While habitat loss still remains a threat to the bald eagle's full recovery, most experts agree that its recovery to date is encouraging Bald eagles are believed to live 30 years or longer in the wild, and even longer in captivity. They mate for life and build huge nests in the tops of large trees near rivers, lakes, marshes, or other wetland areas. Nests are often re-used year after year. With additions to the nests made annually, some may reach 10 feet across and weigh as much as 2,000 pounds Although bald eagles may range over great distances, they usually return to nest within 100 miles of where they were raised.

Bald eagles normally lay two to three eggs once a year and the eggs hatch after about 35 days. The young eagles are flying within 3 months and are on their own about a month later. However, disease, lack of food, bad weather, or human interference can kill many eaglets; sometimes only about half will survive their first year.

A disturbance-free buffer zone of 1 mile should be maintained around eagle nests and winter roost sites. Activity within 1 mile of an eagle nest or roost may disturb the eagles and result in "take". If a disturbance-free buffer zone of 1 mile is not practicable, then the activity should be conducted outside of Feb 15 - Aug 15 to protect nesting birds and Nov 1 - April 15 to protect roosting birds.

The staple of most bald eagle diets is fish, but they will feed on almost anything they can catch, including ducks, rodents, snakes, and carrion. In winter, northern birds migrate south and gather in large numbers near open water areas where fish or other prey are plentiful.

BLACK-FOOTED FERRETS: Black-footed ferrets may be affected if prairie dog colonies are impacted **If black-tailed prairie dog (*Cynomys ludovicianus*) colonies or complexes greater than 79 acres or white-tailed prairie dog (*C. leucurus*) colonies or complexes greater than 200 acres will be disturbed, surveys for ferrets should be conducted even if only a portion of the colony or complex will be disturbed.** A white-tailed prairie dog town or complex consists of two or more neighboring prairie dog towns each less than 7 kilometers (4 34 miles) from each other (Black-footed Ferret Survey Guidelines, USFWS, 1989). If a field check indicates that prairie dog towns may be affected, you should contact this office for guidance on ferret surveys.

MOUNTAIN PLOVER: Mountain plover breeding and wintering habitats are known to include grasslands, mixed grassland areas and short-grass prairie, shrub-steppe, plains, alkali flats, agricultural lands, cultivated lands, sod farms, and prairie dog towns. Plovers may nest on sites where vegetation is sparse or absent, or near closely cropped areas, manure piles or rocky areas. Mountain plovers are rarely found near water and show a preference for previously disturbed areas or modified habitat. They may be found on heavily grazed pastures throughout their breeding range and may selectively nest in or near prairie dog towns

The Service recommends surveys for mountain plovers in all suitable habitat as well as avoidance of nesting areas from April 10 through July 10, to minimize impact to plovers in a site planned for development While the Service believes that plover surveys, avoidance of nesting and brood rearing areas, and timing restrictions (avoidance of important areas during nesting) will lessen the chance of direct impacts to and mortality of individual mountain plovers in the area, these restrictions do nothing to mitigate indirect effects, including changes in habitat suitability and habitat loss. Surveys are, however, a necessary starting point.

COLORADO RIVER WATER DEPLETIONS. Where projects may lead to depletions of water to the Colorado river system, formal consultation is required. Federal agency actions resulting in water depletions to the Colorado River system may affect the endangered Bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), Humpback chub (*Gila cypha*), and Razorback sucker (*Xyrauchen texanus*) downstream in the Green and Colorado river systems.

In general, depletions include evaporative losses and/or consumptive use of surface or groundwater within the affected basin, often characterized as diversions less return flows. Project elements that could be associated with depletions include, but are not limited to, ponds (detention/recreation/irrigation storage/stock watering), lakes (recreation/irrigation storage/municipal storage/power generation), reservoirs (recreation/irrigation storage/municipal storage/power generation), pipelines, wells, diversion structures, and water treatment facilities. Any actions that may result in a water depletion should be identified. The document should also include an estimate of the amount and timing (by month) of average annual water depletion (both existing and new depletions), and describe methods of arriving at such estimates

PLATTE RIVER WATER DEPLETIONS: Water depletions to the Platte River system may affect the endangered whooping crane (*Grus americana*), endangered interior least tern (*Sterna antillarum*), threatened piping plover (*Charadrius melodus*), and endangered pallid sturgeon (*Scaphirhynchus albus*), the threatened bald eagle (*Haliaeetus leucocephalus*), the endangered Eskimo curlew (*Numenius borealis*) and threatened western prairie fringed orchid (*Platanthera praeclara*) Depletions include evaporative losses and/or consumptive use, often characterized as diversions from the Platte River or its tributaries less return flows. Project elements that could be associated with depletions to the Platte River system include, but are not limited to, ponds (detention/recreation/irrigation storage/stock watering), lakes (recreation/irrigation storage/municipal storage/power generation), reservoirs (recreation/irrigation storage/municipal storage/power generation), created or enhanced wetlands, pipelines, wells, diversion structures, and water treatment facilities. Any actions that may result in a water depletion to the Platte River system should be identified The document should also include an estimate of the amount and timing (by month) of average annual water depletion (both existing and new depletions), and describe methods of arriving at such estimates

CANDIDATE SPECIES OF WYOMING
Last Updated on July 25, 2001

Candidate Species

Species that are candidates for listing as threatened or endangered that may occur in Wyoming are identified below.

Species	Scientific Name	Status	Distribution
Arctic grayling	(Thymallus arcticus)	Candidate	Greater Yellowstone Ecosystem
Black-tailed prairie dog	(Cynomys ludovicianus)	Candidate	Eastern Wyoming
Yellow-billed cuckoos	(Coccyzus americanus)	Candidate	Riparian areas west of the Continental Divide
Western boreal toad	(Bufo boreas boreas)	Candidate	Mountains of southeast Wyoming

Many Federal agencies have policies to protect candidate species from further population declines. The U.S. Fish and Wildlife Service would appreciate receiving any information available on the status of these species in or near the project area. In addition, if one or more of these species is listed prior to the completion of your project, unnecessary delays may be avoided by considering project impacts to candidates now.

Should any of these species be proposed for listing, the lead Federal agency would be required to confer with the U.S. Fish and Wildlife Service if that agency determines their action (e.g. approval of the project) is likely to jeopardize the continued existence of any of these species.

Contact:

Field Supervisor
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Ecological Services Field Office
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Cheyenne, Wyoming 82001

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